



Federal Communications Commission
Washington, D.C. 20554

December 29, 2005

DA 05-3327

Released: December 29, 2005

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

WBAL Hearst-Argyle Television, Inc.
WBAL-TV
c/o Brooks, Pierce, et. al.
P.O. Box 1800
Raleigh, NC 27602

Re: WBAL Hearst-Argyle Television, Inc.
WBAL-TV, Baltimore, MD
Facility ID No. 65696
File No. BRCT-20040601BGI

Dear Licensee:

This refers to your license renewal application for station WBAL-TV, Baltimore, MD.

Section 73.3526 of the Commission's Rules (Rules) requires broadcast licensees to maintain a public inspection file containing specific types of information related to station operations.¹ As set forth in Section 73.3526(e)(11)(iii) of the Rules, each commercial television broadcast station is required to prepare and place in its public inspection file a Children's Television Programming Report (FCC Form 398) for each calendar quarter reflecting, *inter alia*, the efforts it has made during the quarter to serve the educational needs of children. Section 73.3526(e)(11)(iii) of the Rules also requires commercial television stations to file the reports with the Commission and to publicize the existence and location of the reports. In addition, Section 73.3526(e)(11)(i) provides that a TV issues/programs list is to be placed in a commercial TV broadcast station's public inspection file each calendar quarter. Section 73.3526 also requires licensees to place Children's Television Programming Reports and TV issues/programs lists for each quarter in the station's public inspection file by the tenth day of the succeeding calendar quarter. Where lapses occur in maintaining the public file, neither the negligent acts nor omissions of station employees or agents, nor the subsequent remedial actions undertaken by the licensee, excuse or nullify a licensee's rule violation.²

¹ See 47 C.F.R. § 73.3526.

² See *Padre Serra Communications, Inc.*, 14 FCC Rcd 9709 (1999) (citing *Gaffney Broadcasting, Inc.*, 23 FCC 2d 912, 913 (1970) and *Eleven Ten Broadcasting Corp.*, 33 FCC 706 (1962)); *Surrey Range Limited Partnership*, 71 RR 2d 882 (FOB 1992).

On June 1, 2004, you filed the above-referenced license renewal application for station WBAL-TV. In response to Section IV, Question 3 of that application, you certify that, during the previous license term, station WBAL-TV placed in its public inspection file at the appropriate times, the documentation required by Section 73.3526 of the Commission's Rules. In Exhibit 17 of that application, however, you state that as a result of remodeling of WBAL-TV's office, some documents were not promptly replaced in the public file when the public file was repositioned in its new, permanent location. You also indicate that to your knowledge, no one requested the materials during this period, and that when these materials were located, they were refiled in the public inspection file. You report that in reviewing the public file in preparation for filing the license renewal application, you discovered that TV issues/programs lists and Children's Television Programming Reports from a few quarters were missing from the public file. Moreover, you state that in each case, either copies or the original documents were located and replaced in the public file. Finally, you indicate that you have implemented a system to facilitate the immediate replacement of any public file materials that are missing.

Based upon the record before us, the violations described in your renewal application appear to have been isolated occurrences. Although we do not rule out more severe sanctions for violations of this nature in the future, we have determined that an admonition is appropriate at this time. Therefore, we ADMONISH you for the violations of Sections 73.3526(e)(11)(i) and 73.3526(e)(11)(iii) of the Rules.

In evaluating an application for license renewal, the Commission's decision is governed by Section 309(k) of the Communications Act of 1934, as amended (Act), 47 U.S.C. § 309(k). Section 309(k) provides that if, upon consideration of the application and pleadings, we find that (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Communications Act or the Commission's Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse, we are to grant the renewal application.³ If, however, the licensee fails to meet that standard, the Commission may deny the application – after notice and opportunity for a hearing under Section 309(e) of the Act – or grant the application “on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted.”⁴

The public inspection file rule serves the critical function of making available to the public important information related to station operations. On balance, however, we find that WBAL Hearst-Argyle Television, Inc.'s violation of Section 73.3526 does not constitute a “serious violation” of the Commission's rules warranting designation for evidentiary hearing. Moreover, we find no evidence of violations that, when considered together, evidence a pattern of abuse. Further, we find that station WBAL-TV served the public interest, convenience, and necessity during the subject license term. We will therefore grant the license renewal application below.

³ 47 U.S.C. § 309(k)(1). The renewal standard was amended to read as described by Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). See *Order, Implementation of Sections 204(a) and 204(c) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures)*, 11 FCC Rcd 6363 (1996).

⁴ 47 U.S.C. §§ 309(k)(2), 309(k)(3).

Accordingly, IT IS ORDERED that, a copy of this Letter shall be sent by First Class and Certified Mail, Return Receipt Requested to WBAL Hearst-Argyle Television, Inc. at the address listed above, and to its counsel, Mark J. Prak, Esquire, Brooks Pierce McLendon Humphrey & Leonard, LLP, P.O. Box 1800, Raleigh, NC 27602.

Finally, IT IS ORDERED that, the application (File No. BRCT-20040601BGI) of WBAL Hearst-Argyle Television, Inc. for renewal of license for station WBAL-TV, Baltimore, Maryland, IS GRANTED.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau